

# FEDERAL RELATIONS REPORT

April 29, 1983

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By Mr. GARN (for himself, Mr. METZENBAUM, Mr. ROTH, Mr. STAFFORD, Mr. PERCY, Mr. TSONGAS, Mr. PELL, Mr. PROXMIER, Mr. HATCH, Mr. DANFORTH, and Mr. MITCHELL)

S. 1179. A bill to repeal provisions of law concerning price support for, and marketing of, tobacco, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

#### TOBACCO DEREGULATION ACT OF 1983

Mr. GARN. Mr. President, today we are introducing the Tobacco Deregulation Act of 1983. This bill will eliminate the tobacco acreage allotment program, but offer protection, at no cost to the taxpayer, to those low-income individuals whose allotment income constitutes their sole source of support. The bill would also repeal the price support loan system for tobacco as well. By doing so, this legislation would get the Government out of the tobacco business, reduce Government regulation, and save the taxpayers tens of millions of dollars every year.

The Federal Government's current policy toward tobacco is an offensive paradox. We have spent some \$57 million helping farmers produce tobacco (this does not include costs of processing, transportation, storage, or lost interest money), while at the same time spending more than \$33 million attempting to dissuade Americans from using it. There is an irrefutable and alarming link between smoking and disease. This product was responsible

340,000 deaths in 1982 alone. More died prematurely from smoking-related diseases in 1 year, according to the American Lung Association, than all of those who died for this country in all of the wars America has fought in the 20th century. Over \$3 billion annually is spent by the Federal Government directly, through medicare, medicaid, and disability insurance, for the treatment of illnesses caused by smoking. The American Public Health Association says smoking is the single most preventable cause of death and illness in the United States, that it is our most serious and widespread drug addiction, and that it costs over \$40 billion in lost productivity, lost wages, and absenteeism in the economy. The Federal excise tax on tobacco products does not begin to cover these costs to society, and in my opinion, we have no business subsidizing this crop.

Last year, Congress did pass a bill called the "No Net Cost" Tobacco Act. As many of us suspected at the time, the bill has only made cosmetic changes in the program, without addressing the real problems. The feudalistic allotments still exist; USDA expected, correctly, that the 1982 crop

would cost at least \$60 million in taxpayer money, and over 25 percent of the flue-cured tobacco crop has been bought by the Government as surplus, at a cost approaching \$1 billion. As was argued at the time, there is little market for this tobacco at the prices needed to meet costs, and much of it may be unmarketable in the next few years. The price support system still keeps tobacco prices artificially high, and Secretary Block warned that his authority under the "no net cost" bill was not sufficient to adjust the price support level to actually realize no net cost.

Additionally, the act still provided no regular review of the tobacco price support system, as there is for nearly every other major farm commodity. In light of the particular dangers of this crop and its costs to society (both direct and indirect), I find this specialized treatment incredible and unjustifiable.

Similar legislation in the House of Representatives has been endorsed by the American Cancer Society, the American Lung Association, Action on Smoking and Health, the American Public Health Association, Public Citizen's Congress Watch, the National Taxpayers' Union, the Council for a Competitive Economy, and the United Tobacco Growers Association. Similar proposals have received substantial Senate support in the past, and we urge the support of our colleagues for this measure.

Mr. METZENBAUM. Mr. President, I am pleased to join Senators GARN, ROTH, STAFFORD, PERCY, TSONGAS, PELL, PROXMIER, HATCH, DANFORTH, and MITCHELL today in introducing the Tobacco Deregulation Act of 1983. This bill will at long last bring to an end the anachronistic and counterproductive role of the Federal Government in the production and distribution of tobacco. Companion legisla-

tion, introduced in the House by Representative THOMAS PERRI of Wisconsin and 53 cosponsors, has been endorsed by the American Cancer Society, the American Lung Association, the American Heart Association, Action on Smoking and Health, the American Public Health Association, Public Citizen, Congress Watch, the National Taxpayers' Union, the Council for a Competitive Economy, and the United Tobacco Growers Association of North Carolina.

At one level, Mr. President, this bill is intended to eliminate the glaring inconsistency of our Government's efforts to discourage smoking on the one hand while on the other hand, subsidizing the production of tobacco.

Let us review some of what is known about smoking and health.

As a group, smokers have a 70 percent increased risk of death over nonsmokers of the same age. Heavy smokers run a 100-percent higher risk of early death.

Smokers are more frequently afflicted than nonsmokers with chronic conditions—bronchitis, emphysema, sinusitis, peptic ulcer disease.

Male smokers lose 33 percent more workdays than nonsmokers. For women, that figure is 45 percent.

Smoking clearly and unequivocally causes cancer of the lung, larynx, mouth, and esophagus.

Smoking is linked with heart disease.

Smoking by pregnant women increases the incidence of fetal death and lowers birth weights.

Smoking is one of this Nation's two or three leading public health problems.

The opponents of our bill maintain that its enactment will not discourage smoking.

We do not claim that it will. But we do say that enactment of the Tobacco Deregulation Act will make our national policy consistent.

And we also say that as a matter of principle, the Federal Government should not be in the tobacco business.

But consistency aside, the legislation is needed in order to terminate a costly, cumbersome and anticompetitive Federal program that has by any standard outlived its usefulness.

The USDA's tobacco program began in the 1930's, when tobacco farmers were getting as little as 6 cents a pound for their product. Supply controls were useful at that time, but as Prof. J. A. Seagraves of North Carolina State University concluded in a recent paper entitled "The Life Cycle of the Flue-Cured Tobacco Program," the program no longer serves the interests of tobacco growers.

"Supply controls can have large benefits to producers at first," Professor Seagraves wrote, "and then 'burn themselves out' as they create incentives for other countries to expand production and for manufacturers to introduce substitutes. This happened in the case of the Flue-cured tobacco

program. The U.S. share of the world's Flue-cured tobacco production has fallen from 64 percent in the late 1930's to about 18 percent today. Imports of Flue-cured tobacco, which were insignificant before 1967, now represent about one fourth of domestic consumption."

Professor Seagraves further calculates that between 1948 and 1955 the program produced a net benefit to the United States of up to \$166 million per year. In the early 1980's, however, the program is responsible for a net loss of \$52 million a year.

But, Mr. President, the problem goes beyond a burned out supply control system that has steadily eroded our position in the world market. The real problem is the nature of that system.

Just because a farmer wants to produce tobacco in this country does not mean that he can do so. Tobacco may be produced without penalty only by those who hold an acreage allotment assigned more than 30 years ago. The penalty for growing tobacco over the allotment or without the allotment is a stiff one. It equals 75 percent of the previous year's average sale price of tobacco.

Those allotments are as hereditary as any feudal domain in medieval Europe.

They are vulnerable. A 200-acre farm with a 10-acre tobacco allotment is worth up to \$50,000 more than an identical farm without an allotment.

Mr. President, ours is the greatest free market economy in the world—but not when it comes to tobacco.

We control crop volume.

We penalize backyard growing of tobacco without a license.

We keep mom and pop out of the marketplace unless he or she has an allotment.

Even the tobacco growers' newspaper, the Cured Tobacco Farmer, questioned the allotment program.

The benefits of the support program appear to be migrating largely into the bank accounts of the nonproducing quota owners, with you, the actual producer, profiting at approximately the same level you could be expected to without any program at all.

The allotment system, which was designed originally to help farmers, is today a major source of income for nonfarmer holders of tobacco allotments. There are 95,000 tobacco farmers—and 500,000 holders of tobacco allotments.

About 84 percent of all family tobacco farmers must rent allotments in order to grow their crops. Rent can run over \$1,000 per acre and increases the cost of production for growers by 30 to 60 percent. No wonder that last year, we imported \$503 million worth of tobacco, mainly of the type grown in the United States.

Mr. President, our bill will give the free market a chance to work.

It will permit tobacco growers to get out from under the onerous allotment system.

It will give our farmers a fighting chance to recover their share of the domestic and world tobacco market.

It will protect low-income allotment holders by buying out their allotments at the fair market price as of March 8, 1983. This one-time payment to be made on a sliding scale to allotment holders with modified adjusted gross incomes up to \$24,000, will be funded at no cost to the Federal Government by a levy imposed upon growers.

I believe that tobacco deregulation is long overdue and I hope that the Senate will move as quickly as possible to consideration of this legislation. I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

#### S. 1179

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SHORT TITLE

SECTION 1. This Act may be cited as the "Tobacco Deregulation Act of 1983".

#### REPEAL OF PROVISIONS OF LAW CONCERNING PRICE SUPPORT FOR TOBACCO

SEC. 2. (a)(1) Section 101(a) of the Agricultural Act of 1949 (7 U.S.C. 1441(a)) is amended by striking out "tobacco (except as otherwise provided herein), corn," and inserting in lieu thereof "corn".

(2) Section 101(c) of such Act (7 U.S.C. 1441(c)) is repealed.

(3) Section 101(d)(3) of such Act (7 U.S.C. 1441(d)(3)) is amended—

(A) by striking out "... except tobacco," and

(B) by striking out "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers";

(b) Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445-1, 1445-2) are repealed.

(c) Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking out "tobacco".

#### REPEAL OF PROVISIONS OF LAW CONCERNING TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 3. (a) Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking out "tobacco".

(b) Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3) by striking out subparagraph (C),

(2) in paragraph (6)(A) by striking out "tobacco",

(3) in paragraph (7) by striking out "Tobacco (flue-cured), July 1-June 30; Tobacco (other than flue-cured), October 1-September 30";

(4) in paragraph (10) by striking out subparagraph (B),

(5) in paragraph (11)(B) by striking out "and tobacco",

(6) in paragraph (12) by striking out "tobacco",

(7) in paragraph (14)—

(A) by striking out "(A)", and

(B) by striking out subparagraph (B),

(8) by striking out paragraph (15), and

(9) in paragraph (16) by striking out subparagraph (B).

(c) Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended

by striking out "rice, or tobacco," and inserting in lieu thereof "or rice".

(d) Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking out "tobacco".

(f)(1) Section 371(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371(a)) is amended by striking out "peanuts, or tobacco" and inserting in lieu thereof "or peanuts".

(2) Section 371(b) of such Act (7 U.S.C. 1371(b)) is amended by striking out "peanuts, or tobacco" and inserting in lieu thereof "or peanuts".

(g)(1) Section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended—

(A) in the first sentence—

(i) by striking out "peanuts, or tobacco, and" and inserting in lieu thereof "or peanuts, and";

(ii) by striking out "peanuts, or tobacco from" and inserting in lieu thereof "or peanuts from"; and

(iii) by striking out "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers," and

(B) in the last sentence by striking out "\$500;" and all that follows through the end thereof and inserting in lieu thereof "500".

(2) Section 373(b) of such Act (7 U.S.C. 1373(b)) is amended by striking out "peanuts, or tobacco" and inserting in lieu thereof "or peanuts".

(h) Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking out "peanuts, or tobacco" and inserting in lieu thereof "or peanuts".

(i) Section 378(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378(f)) is repealed.

(j) The Act entitled "An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended", approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(k) Section 4 of the Act entitled "An Act to amend the Agricultural Adjustment Act of 1938 as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes", approved April 16, 1965 (7 U.S.C. 1314c note), is repealed.

(l) Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

#### EXCLUSION OF TOBACCO FROM CONCESSIONAL EXPORT SALES PROVISIONS OF PUBLIC LAW 480

SEC. 4. The proviso to the first sentence of section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended by striking out "... and for the purposes of title II of this Act," and inserting in lieu thereof "or".

#### PROHIBITION AGAINST COMMODITY CREDIT CORPORATION USING POWER WITH RESPECT TO TOBACCO

SEC. 5. Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by adding at the end the following new undesignated paragraph:

"Notwithstanding any other provision of law, the Corporation may not exercise any of the powers specified in this section or in any other provision of this Act with respect to tobacco."

#### PROHIBITION AGAINST TOBACCO MARKETING ORDERS

SEC. 6. Section 8c(2) of the Agricultural Adjustment Act (7 U.S.C. 608c(2)), reenacted with amendments by the Agricultural

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Marketing Agreement Act of 1937, is amended—

- (1) by striking out "tobacco,"
- (2) by inserting "tobacco," after "(B) any agricultural commodity (except honey)," and

(3) by adding at the end the following new sentence: "Notwithstanding any other provision of law, no order concerning tobacco may be issued or enforced under this Act."

WITHDRAWAL OF CONSENT RELATIVE TO COMMERCE AMONG STATES FOR REGULATING TOBACCO PRODUCTION AND COMMERCE

Sec. 7. (a) The Act entitled "An Act relating to compacts and agreements among States in which tobacco is produced providing for the control of production of, or commerce in, tobacco in such States, and for other purposes", approved April 25, 1936 (7 U.S.C. 515 et seq.), commonly known as the Tobacco Control Act, is repealed.

(b) The Congress hereby withdraws its consent to any compact or agreement entered into under the Act referred to in subsection (a).

PAYMENTS TO LOW INCOME OWNERS OF FARMS WITH TERMINATED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

Sec. 8. (a)(1) Each individual who—

(A) during the period beginning on March 8, 1983, and ending on the date of the enactment of this Act, owned all or part of a farm with respect to which a tobacco acreage allotment or marketing quota was established or assigned under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.),

(B) had a modified adjusted gross income of not over \$24,000 for the taxable year ending in 1982, and

(C) not later than December 31, 1984, files an application in such manner and in such form as the Secretary may require by rule, shall be entitled to receive payments from the Secretary in accordance with this subsection.

(2)(A) The aggregate amount of payments which such individual shall be entitled to receive shall be equal to the product of—

(i) the percentage of the proceeds of sale such individual would have been entitled to receive if such allotment or quota had been sold on March 8, 1983, and

(ii) the portion of the fair market value of such allotment or quota which corresponds to the amount of such modified adjusted gross income in the table contained in subparagraph (B).

(B) The table referred to in subparagraph (A) is the following table:

The applicable portion of the fair market value of such allotment or quota is:	
If the amount of such modified adjusted gross income is:	
Not over \$15,000	100 percent.
Over \$15,000 but not over \$16,000	90 percent.
Over \$16,000 but not over \$17,000	80 percent.
Over \$17,000 but not over \$18,000	70 percent.
Over \$18,000 but not over \$19,000	60 percent.
Over \$19,000 but not over \$20,000	50 percent.
Over \$20,000 but not over \$21,000	40 percent.
Over \$21,000 but not over \$22,000	30 percent.
Over \$22,000 but not over \$23,000	20 percent.

Over \$23,000 but not over \$24,000. 10 percent.

Over \$24,000. 0 percent.

(3) For purposes of paragraph (2), the fair market value of such allotment or quota shall be the fair market value of such allotment or quota on March 8, 1983, as determined by the Secretary. In making such determination, the Secretary shall consider studies relating to the value of tobacco acreage allotments and marketing quotas established under such part which have been conducted by universities, colleges, and other persons.

(4) For purposes of paragraph (1)(B) and paragraph (2), the modified adjusted gross income of such individual for such taxable year shall be the adjusted gross income of such individual for such taxable year or, if such individual filed a joint return for such taxable year, the adjusted gross income of such individual and such individual's spouse for such taxable year—

(A) determined under section 63 of the Internal Revenue Code of 1954 without regard to the deductions from gross income allowable under such section for such taxable year by reason of—

(i) paragraph (7) of such section (relating to profit-sharing, annuities, and bond purchase plans of self-employed individuals),

(ii) paragraph (10) of such section (relating to retirement savings), and

(iii) paragraph (14) of such section (relating to reforestation expenses), and

(B) increased by—

(i) interest and dividends exempt from the tax imposed by chapter 1 of such Code for such taxable year, and

(ii) the items of tax preference described in section 87 of such Code (other than paragraph (8) thereof) for such taxable year.

(5) For purposes of paragraph (1)(A), an acreage allotment or marketing quota which is—

(A) established or assigned to a farm under such part, and

(B) transferred to another farm (other than after a sale of such allotment or quota),

shall not be considered established or assigned with respect to the farm to which such allotment or quota was so transferred.

(6) To the extent provided in advance by appropriations Acts, the Secretary shall make payments to which individuals are entitled under this subsection—

(A) as soon as amounts are received under subsection (b), and

(B) in as equitable, efficient, and expeditious a manner as is practicable.

(b)(1) All payments made under subsection (a) shall be made from amounts received by the Secretary as assessments under this subsection.

(2) For purposes of carrying out paragraph (1), the Secretary shall establish and impose assessments applicable to the marketing of all tobacco produced in the United States. Such assessments shall not apply with respect to tobacco of crops before the 1984 crop of tobacco. The rates of such assessments—

(A) shall generate, as soon as practicable, amounts sufficient to make such payments,

(B) shall not exceed 20 cents per pound,

(C) shall be uniform with respect to all kinds of tobacco,

(D) shall be uniform with respect to a particular crop of tobacco, and

(E) shall be as uniform as practicable with respect to all crops of tobacco with respect to which such assessments are imposed.

(3) Any person who produces tobacco with respect to which such assessments are imposed shall be liable for such assessments.

(4)(A) Except as provided in subparagraph (B), assessments imposed with respect to tobacco and owed under paragraph (3) by the producer of such tobacco shall be collected from any person who acquires, by purchase or exchange, such tobacco from such producer.

(B)(i) If tobacco with respect to which assessments are owed under paragraph (3) is marketed through a warehouseman or other agent, then such assessments shall be collected from such warehouseman or agent.

(ii) If tobacco with respect to which assessments are owed under paragraph (3) is marketed directly by the producer of such tobacco to any person outside of the United States, then such assessments shall be collected from such producer.

(5) Persons required to collect assessments under paragraph (4) shall—

(A) remit such assessments to the Secretary at such time and in such manner as the Secretary may require by rule, and

(B) maintain, and make available for inspection by the Secretary, such records as the Secretary may require, by rule, in order to ensure an accurate accounting of the collection and remittance of such assessments.

(6)(A) Any person who fails to pay, collect, or remit any assessment owed under paragraph (3) or payable under paragraph (4) and paragraph (5) may be assessed a civil penalty by the Secretary equal to the product of three and the amount of such assessment. No civil penalty may be so assessed unless such person is given notice of, and opportunity for an agency hearing on the record with respect to, such violation.

(B) Any person against whom a civil penalty is assessed under subparagraph (A) may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(C) The district courts of the United States shall have jurisdiction to review and enforce any civil penalty imposed under subparagraph (A).

(c) For purposes of this section—

(1) the term "Secretary" means the Secretary of Agriculture,

(2) the term "person" shall have the meaning given to it in section 1 of title 1, United States Code,

(3) the term "tobacco" means all kinds of tobacco listed in section 301(b)(15) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1901(b)(15)),

(4) the term "to market" means to sell or exchange in a commercial market, and

(5) the term "United States", when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

EFFECTIVE DATES

Sec. 9. (a) Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 2 through 6 shall not apply with respect to crops of tobacco before the 1984 crop of tobacco.

(2) Section 7(b) and the amendment made by section 7(a) shall take effect January 1, 1984.

(3) Section 8 shall take effect October 1, 1983.

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